

Frank, Garwood,	McKinney, Mott,	Tyler, Whatley.
	NAYS—4.	
Cranford, Kearby,	Lubbock,	Page.

FIFTY-FIRST DAY.

SENATE CHAMBER.
Austin, March 13, 1891.

The Senate met pursuant to adjournment.

Lieutenant-Governor Pendleton in the chair.

Roll called.

Quorum present.

The following Senators answering to their names:

PRESENT—28.

Atlee,	Harrison,	Pope,
Burney.	Johnson,	Potter,
Clark,	Kearby,	Seale,
Clemens,	Kimbrough,	Simkins,
Crane,	Lubbock,	Stephens,
Cranford,	Maetze,	Townsend.
Finch,	McKinney,	Tyler.
Frank,	Mott,	Weisiger,
Garwood,	Page,	Whatley.
Glasscock,		

ABSENT—None.

Prayer by the Chaplain, Dr. Smoot.

Pending the reading of the journal on motion of Senator Finch the further reading of the same was dispensed with.

PETITIONS AND MEMORIALS.

By Senator Stephens:

Petition of citizens of Floyd county, praying for the repeal of the law requiring county boundaries of newly elected counties to be run before the surrounding district is established.

Read first time and referred to committee on Counties and County Boundaries.

By Senator Finch:

A bill to be entitled "An act to amend section 41 of an act to establish and maintain a system of public free schools for the state of Texas, and to repeal so much of chapter 3 of title 78 of the revised civil statutes of Texas as refer to public free schools outside of incorporated cities and towns, assuming or having assumed control of their public free schools passed at the special session of the Eighteenth legislature, and also section 42 of said act, as amended by an act to amend sections 36, 42, 43, 50, 56, 61, 62, 63, 66 and 71 of an act passed by the Twentieth legislature."

Read first time and referred to committee on Education.

By Senator Whatley:

Petition of citizens of Marion county, favoring House bill restoring civil jurisdiction to Marion county.

Read first time and referred to committee on Judicial Districts.

By Senator Whatley:

Petition of citizens of Marion county protesting against House bill restoring civil jurisdiction of county court.

Read first time and referred to committee on Judicial Districts.

By Senator Cranford:

Petition of one hundred and fifty ladies of Camp county praying for the enactment of a law raising the age of consent from ten to eighteen years.

Read first time and referred to Judiciary committee No. 2.

The following reports were handed in from their respective committees:

COMMITTEE ROOM.
Austin, March 12, 1891.

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your committee on Internal Improvements, to whom was referred House bill No. 275, being "An act to regulate rates of charges to be made by express companies for the transportation and delivery of all such articles of freight, money, papers or packages of any kind, to require such express companies to promptly deliver the same, and to make all such express companies subject to the control and regulation of the railroad commission of Texas, and to prescribe penalties for the protection of this act."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

JOHNSON, Chairman.

COMMITTEE ROOM.
Austin, March 12, 1891.

Hon. George C. Pendleton, President of the Senate:

Sir—Your committee on Roads and Bridges, to whom was referred

House bill No. 526, being "An act to create a more efficient road system for the counties of Grayson, Dallas, Galveston, Brown, Comanche, Mills, Fannin, Travis, Hunt, Hill, Collin, Denton, Kaufman, and Fayette, in the State of Texas, authorizing the employment of a road commissioner, defining his powers, prescribing penalties for his failure to perform his du-

ties, and further defining the powers of the commissioners courts of the counties under this act."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass with the following amendment:

Amend section 1, page 2, line 13, by striking out "upon," and insert "for" instead.

All of which is respectfully submitted.

KIMBROUGH, Chairman.
COMMITTEE ROOM.

Austin, March 12, 1891.

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your committee on Roads, and Bridges, to whom was referred

Senate bill No. 252, being "An act to authorize cities and towns incorporated under the general laws to levy and collect tax for street and bridge purposes as provided by the constitution,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do not pass for the reason that the Senate has already passed a bill containing the same subject matter of this one.

KIMBROUGH, Chairman.
COMMITTEE ROOM,

Austin, March 12, 1891.

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your committee on Towns, Cities and Corporations, to whom was referred

Senate Bill No. 329, being "An act to amend the charter of the city of Houston,"

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

POTTER, Chairman.

The following message was received from the House:

HOUSE OF REPRESENTATIVES,
TWENTY SECOND LEGISLATURE,
Austin, Tex., March 13, 1891.

Hon. George C. Pendleton, President of the Senate:

Sir—I am directed to inform you that the House has passed

Senate bill No. 235, being "An act to apportion between the Agricultural and Mechanical college and the Prairie View state normal school the fund due Texas under an act of congress for the more complete endowment and maintenance of agricultural and mechanical colleges, and to designate

a person to receive and receipt for said money."

Ayes, 80; noes, none.

I am also directed to inform the Senate that the House refuses to concur in Senate amendment to House bill No. 211 and asks that a free conference and that the House has appointed Messrs. Kleiber, Browning of Donley, Williamson, Urbahn and Baker of Tom Green as conference committee on the part of the House,

Respectfully,

SAM H. DIXON,
Chief Clerk H. of R.

Senator Kimbrough moved to postpone pending business, and take up out of its regular order Senate bill No. 335, but withdrew his motion before it was acted upon.

ORDER OF THE DAY.

Question recurred to the adoption of the substitute of Senator Garwood for sections 5 and 6 of

House Substitute Senate bills Nos. 1, 3 and 58, entitled "An act to establish a railroad commission for the state of Texas, whereby discrimination and extortion in railroad charges may be prevented, and reasonable freight and passenger tariffs may be established; to prescribe and authorize the making of rules and regulations to govern the commission and the railroads, and to afford railroad companies and other parties adequate remedies; to prescribe penalties for the violation of this act, and provide means and rules for its enforcement.

The substitute is as follows:

Strike out sections 5 and 6 and insert in lieu thereof

Section 5. All classifications, rates, charges, rules, regulations and determinations made and established by the commission under the provisions of this act, shall be held by all courts and in all proceedings to be prima facie reasonable and just; but any railroad company may in any proceeding against it plead that such classification, rate, charge, rule, regulation or decision made by the commission is unreasonable and unjust to it, and if the truth of such plea be established by competent and satisfactory evidence, the same shall be held to be unreasonable and unjust.

But when any suit brought under this act between the State and any railroad company, any rate, charge, classification, rule, regulation or decision of the commission has finally been held to be reasonable, in all subsequent suits brought by any person firm or corporation against such rail-

road, said rate, charge, classification, rule, regulation or decision shall be held to be reasonable until the same shall have been changed by the commission.

In all suits a certified copy or printed copy from the commission of the classifications, rates, charges, rules, regulations and orders of the commission shall be admissible in evidence and sufficient to establish the fact that any charge, rate, rule, regulation, order or classification therein contained, that may be in issue in the trial, is the official act of the commission.

A substantial compliance with the requirements of this act shall be sufficient proof to give effect to all the classifications, rates, charges, rules, regulations, and orders made and established by the commission, and none of them shall be declared inoperative for any omission of a technical matter in the performance of such act.

Expunged by order of the Senate.

Expunged by order of the Senate.

Senator Simkins spoke in opposition to the substitute of Senator Garwood and Senator Garwood in favor of it.

The chair gave notice of signing, and signed in open Senate,

House bill No. 448, entitled "An act to re-organize the Thirty-second and Thirty-ninth judicial districts, and to create the Fiftieth judicial district of the State of Texas, to fix the times for holding court therein, to provide for the appointments and election of a judge and district attorney in the Fiftieth judicial district, and to repeal all laws in conflict therewith." Also,

House bill No. 96, entitled "An act to amend sections 3 and 5 of an act in relation to chattel mortgages and other instruments intended to operate as mortgages or liens upon personal property and the record thereof. Also

House bill No. 325, entitled "An act to amend an act approved March 25, 1889, being an act to amend an act to redistrict the State of Texas into judicial districts, and fix the time for holding court therein, and to provide for the election of judges and district attorneys in said districts at the next general election, to be held on the first Tuesday after the first Monday in November, 1884, approved April 9, 1883, and to amend said section 28 of said act, approved February 26, 1885, and to create the Forty-ninth judicial district, to provide for appointment and election of a district judge and a district attorney therein, and to repeal all laws and parts of laws in conflict therewith,

Senator Potter offered the following amendment to the amendment, which was accepted by Senator Garwood:

Amend the amendment as follows: Strike out "prima facie," and insert "sufficient."

Senator Lubbock moved the previous question, which was ordered.

On the substitute as amended the following vote was taken:

YEAS—10.

Atlee,	Harrison,	Page,
Cranford,	Johnson,	Potter,
Garwood,	Mott,	Seale.
Glasscock,		

NAYS—17.

Burney,	Kearby,	Stephens,
Clark,	Kimbrough,	Townsend,
Clemens,	Lubbock,	Tyler,
Crane,	Maetze,	Weisiger,
Finch,	McKinney,	Whatley.
Frank,	Simkins,	

And the substitute was lost.

Senator Pope asked to be excused

Expunged by order of the Senate.

from voting, as he was paired with Senator Carter, and did not know how Senator Carter would vote on the substitute.

Senator Johnson offered the following amendment:

Add to section 5, whenever, upon the rendition of any judgment against such railroad in any suit provided for in this section, it shall be made to appear to the court that there is pending between such railroad and the commission such an action as is mentioned in section 6 of this bill, to set aside the rate or rates in question in said suit, then the court may enter a stay of judgment in said suit until and to await the determination of the said suit by such railroad against the commission.

Senator Atlee offered the following substitute, which was accepted by Senator Johnson:

Add to section 5 the following:

Provided if pending any such suit there shall be instituted or shall be pending a direct action brought for the purpose of determining the validity, justness or reasonableness of such rates, charges, orders, rules, regulations or classifications under the provisions of sections 6 and 7 hereof, then the proceedings in the suit between said private parties and the railway company may be stayed by the court on application of the party affected, showing that manifest injury, for which no legal remedy exists will result from the enforcement of such rates, charges, orders, rules, regulations or classifications until the said direct action involving the question of the validity, justness or reasonableness thereof shall be determined. And in such case the court shall grant the equitable relief to which the applicant may be entitled, on the filing of a bond in such sufficient amount as the court may fix, conditioned for the payment of all damages and penalties which may accrue, if the final judgment in said direct action shall be against said applicant, and shall establish the validity, justness or reasonableness of such rates, charges, orders, rules, regulations or classifications.

By consent Senator Whatley presented the following report from special committee which was ordered printed in the Journal:

COMMITTEE ROOM,

Austin, March 11, 1891.

Hon. George C. Pendleton, President of the Senate, and

Hon. R. T. Milner, Speaker of the House of Representatives:

Gentlemen—Your joint committee of the Senate and House, appointed under House concurrent resolution passed February, 1891, to visit and examine the condition, management and operation of the penitentiaries of this State, and to make such recommendations as they might deem fit and proper after having made such investigation, respectfully beg leave to submit the following report:

At a meeting of said committee, at which a quorum was present, Hon. L. A. Whatley of the Senate was selected as chairman. The committee first visited the penitentiary at Rusk, leaving the city of Austin on the evening of the 22d of February, 1891, and arriving at Rusk on the 23d thereafter, where your committee was received by Capt. Douglas, assistant superintendent, who kindly extended every courtesy in the inspection of the various departments of the prison. The committee was first shown through the dining hall and kitchen departments, which presented a very cleanly and neat appearance, and upon inquiry by the committee of many of the convicts as to the quantity and quality of food, it was learned that the supply was sufficient and in the main well prepared. We next proceeded to inspect the hospital department in company with Dr. Jamison, the prison physician. We found nine sick patients in the hospital, of which number three had been received from the coaling camp, the remainder belonging to the prison proper. They have three wards and twenty-eight beds for the accommodation of the sick, and it is the opinion of your committee that there should be some change in the construction of the wards so as to give better ventilation, as the rooms are so situated as to become extremely warm in the summer and thereby add to the discomfort of the inmates: We found the medicine department presided over by a convict, who filled prescriptions and dispensed the medicine to the sick. We would recommend a change in this particular by the employment of a nurse or physician whose constant duty it would be to take charge of and assist the prison physician, whose duties forbid his being able to be there at all times. We were next shown through the machine shops by the manager, Mr. M. J. Walsh, who is foreman of inside industries, and who

stated to the committee that the machinery is adequate to the demands for work to be done, and that an outlay of \$54,580 would furnish the machinery to employ three hundred more men inside the walls. A copy of his estimate we beg leave to attach to this report as exhibit "A." We next made inquiry as to the water supply, and found it to be insufficient, and especially so in case of fire occurring in any portion of the prison, and, as suggested by the superintendent, Major Goree, and financial agent, Mr. Parish, in their report ending October 31st, 1890, there could be constructed a large stand pipe on the hill west of the prison, and at a small expense, that would be of great advantage in controlling fires that might occur again in the prison. Assistant Superintendent Captain Douglass informed your committee that there were thirty five acres in the orchard, the most of which is set in peaches in full bearing, the remainder in apples and pears, just beginning to bear; also five acres in vineyard. And in the experimental station for the Agricultural and Mechanical college about 320 trees of different kinds of fruit, and also ten acres in a young vineyard. There is also cultivated in a garden and truck patches for the prison, etc., about 120 acres, which furnishes all the vegetables necessary in their season. We next visited the furnace, which was in full blast, and we had the pleasure of witnessing two runs of iron from the furnace; which yielded fifteen tons of pig iron to the run. The manager, Mr. Frazier, seems to be thoroughly conversant with all the details connected with the operations of the furnace, as evidenced by the activity displayed by all the workings of the business. The pipe foundry, which is connected with the furnace, was not at work at the time of our inspection, but the large piles of water pipe that were upon the yards showed it was not always idle, and your committee was informed by the financial agent, Mr. Finley, that the piping turned out there was in good demand, and was one of the best paying departments connected with the prison.

The cost of manufacturing piping was given to the committee by Mr. Barrett, which we beg to attach hereto as exhibit "B." He states to the committee that an outlay of \$25,000 would properly employ 200 more convicts in

the manufacturing of piping. Your committee then proceeded to inspect the ore beds situated one and one fourth miles from the prison where we found quite a number of convicts taking out ore and others loading it upon the tram cars by which it is conveyed to the furnace over a well constructed tram road. The convicts used, however, in this industry are sent out from the prison proper each day and returned thereto at night.

Returning to the prison the committee then inspected the sleeping apartments of the prisoners and found them neatly kept and the bed clothing clean and neat. An opportunity was given the convicts to converse freely with the committee and state any grievances they might make. Quite a number testified to the uniform kindness of the management, while others claimed they were often punished. The only instance of inhumane treatment brought to the attention of the committee were those of two convicts who had attempted to escape returning from the ore-beds. They had been stripped and severely punished by an underkeeper whose name is Harris. The names of the two convicts thus punished are Parks and Weatherly, whose skins were broken in many places, and your committee would here respectfully call the attention of the proper authority to remedy such matter, and see that the rules governing the punishment of convicts are properly observed and enforced, and that humane underkeepers be employed. Relating to stock, etc., there are fifty one mules and five saddle-horses kept for use at the prison, with the necessary number of wagons to do the hauling.

Your committee left Rusk on the morning of the 24th of February, en route to the coaling camp twenty miles south of the prison. The camp is about three miles from the K & G. S. L. R. R., from which it is reached by a spur road, where we arrived at 11 o'clock a. m., and through the kindness of Captain Strain, the sergeant in command of the camp, we were shown the condition of the prison house, the hospital, the kitchen, etc., of the camp. The camp presented a cleanly appearance, and the location is upon a high hill, well selected for healthfulness of the prisoners. There are at this camp 220 men engaged in burning coal to supply the furnace at Rusk,

and they burn about 4,000 bushels of coal per day.

The stock at this place consists of twenty yoke of oxen, nineteen mules, ten saddle horses, and one milch cow, with thirty two wagons, twenty seven of which are in good repair, including also 200 head of hogs and 200 goats.

At 12 o'clock p. m., on the 25th day of February, your committee left Rusk for Huntsville, arriving there at 6 o'clock p. m. On the following morning your committee proceeded to inspect the various departments of the penitentiary at this place, and, escorted by Superintendent Major Goree, we first proceeded to the furniture factory.

Mr. Price, the manager of this department, appears to be very efficient in the business, and, in the opinion of your committee, is turning out an excellent class of furniture which in style and finish is equal to any made by free labor.

Next we inspected the wagon department which is under the direction of Mr. J. T. Jarrard. The class of work done in this department appears to be of the best workmanship and well executed in the construction of both wagons and buggies. We were informed that about 5 per cent of the wagons are sold to the retail trade and the remainder to the wholesale dealers. About 1000 wagons are manufactured annually of which a large amount are sold through J. E. Rogers of Galveston, and S. D. A. Duncan at Dallas. The uniform difference between the wholesale and retail price of machinery, wagons and other manufactures of this penitentiary is about 15 per cent. One of the most expensive features operating against the profitable manufacturing of wagons at this prison is, it appears to us, in buying the material outside of this State, and it appears to your committee that additional machinery to manufacture hubs, spokes, rims, etc., would be a valuable acquisition to this department and thereby reduce the cost of manufacture.

Your committee proceeded next to inspect the tailoring department, and found it in good working order, making clothing, hats, etc., for the convicts. Further inspection developed the cloth and spinning factory, the shoe shop, the harness shop, the chair factory and the foundry, apparently all well conducted and the dis-

cipline good. The articles manufactured appear to be of the best quality as to material, style and finish, and your committee was informed by the superintendent, Major Goree, that the steam power now used to operate the cloth and spinning factory was of sufficient capacity to run about fifty-five more looms. It is the opinion of this committee that it would make the factory more profitable to enter into the manufacture of other grades of cotton goods and increase the force now working inside the walls. Assistant Superintendent J. G. Smither called the attention of your committee to the inefficient water supply, having only one well, from which water is raised by a force pump, and should it fail to work at any time, the operation of every industry in the prison would be suspended. We think some effort should be made to secure a more adequate supply by boring an artesian well as early as practicable to meet the demand. Your committee was then shown through the hospital and dispensary, and are pleased to report that the sick confined therein are properly cared for. The dispensary is supplied with medicines and other medical appliances necessary, and, as at the Rusk prison, it is presided over by a convict under the direction of the prison physician. In this case we would make the same recommendation as for the hospital at the Rusk prison. It appears that there are quite a number of insane convicts in both the prisons, at Rusk and Huntsville; in fact, your committee was shown several of them confined in cells and not situated where they could be properly cared for and treated, and in the opinion of the committee, as suggested by Superintendent Goree, there is an urgent demand for the building of a hospital where these unfortunate characters can have the care and attention that humanity demands. Capt. Smither, the assistant superintendent, informed us that there had been but one death and only one escape during the month of February, and that the guard force consisted of twenty-five men for day and night service who were faithful and reliable men. The guard force asked an interview with the committee, which was granted to them in the office of Superintendent Goree, in which they insisted that their salary was too low on account of the hours of service they were required

to be on watch each day, and we would respectfully ask that the proper authorities look into the matter and give their request such consideration as they may deserve. As at Rusk, your committee gave all the convicts here an opportunity of interview to make complaints if they wished to do so. Quite a number came before the committee and made about the same complaints as at Rusk. The managers and guards were closely examined upon these charges, and while we believe that in some few cases punishment has been inflicted imprudently, it is a matter very hard to determine.

Your committee next inspected the dining hall and kitchen departments, which we found to be clean and neat, and upon inquiry among the convicts, ascertained that the supply of food was ample and well prepared. The committee then turned their attention to the cells, in which the convicts are kept at night, and are pleased to report the same as presenting a neat and cleanly appearance, with the corridors warmed by large heating-stoves that give a degree of comfort to the sleeping inmates. Your committee next proceeded to Harlem farm, in Fort Bend county, arriving there the morning of the 27th of February. This farm comprises about 2768 acres of land, is well drained and fenced, with other improvements thereon, consisting of substantial prisons and necessary guard houses, also a large, well equipped brick sugar mill. The committee were shown over the farm by Captain Ransom, who stated that he will cultivate in cane the present year eight hundred acres, in cotton six hundred acres, in corn, oats and potatoes five hundred acres.

There are now on this farm one hundred and sixty-one convicts, one hundred and two mules, twenty-three wagons, three carts and nine saddle horses. Your committee would here state that all the stock at the various places visited are in fine condition, and we are pleased to report that the management of this farm appears to be thoroughly systematized and in every way in good progress. Dr. Dillard the physician in charge of the hospital, reported only seven sick that day, and upon enquiry of the sick we learned from them that they received all the necessary attention from the nurses and physician.

The dining and cooking apartments

at this farm are neat and well kept and, as reported by the convicts themselves, the supply of food was ample and of good quality. The same privilege was accorded the convicts at this farm to make known any complaints, as at the prison, and we are proud to report that but few complaints were made and they were of a minor character, while others reported that they were well treated and that a proper regard for duty and good conduct were a safeguard against punishment on this farm. On the evening of the 27th February your committee proceeded to the farms of Colonels Ellis and Cunningham.

The convicts on these farms are as follows, as shown by the report of the financial agent: Col. L. A. Ellis' farm, 167; Col. E. H. Cunningham's farm, 127.

Upon investigating among the convicts on these two farms there were no reports of severe punishment made and we found the guard houses and dining-halls neatly kept and sufficient supply of wholesome food furnished. The convicts appeared cheerful, and a few only expressed preference to serving inside the walls to that of farm work, but all seemed to prefer working on the State farm to that of being worked under the contract system.

And after presenting the foregoing general report, we beg leave to offer the following recommendations:

We recommend that the sum of seventy-five (\$75,000) thousand dollars be appropriated to be expended at the Rusk penitentiary, to fully equip the machine shop and increase the capacity of the pipe foundry, and also to build a stand pipe on the hill west of the prison.

To establish a tannery at the Huntsville penitentiary, and machinery to manufacture wagon material, to provide a better water supply, also to provide a suitable hospital for sick and insane convicts, we would recommend an appropriation of sixty-five (\$65,000) dollars therefor.

Your committee would recommend that the sum of one hundred thousand (\$100,000) dollars be appropriated subject to the order of the financial agent to defray the expenses of the penitentiaries at a season when the products of the prison can not be realized on, and that the sum shall be replaced by him when such products are sold.

After making the foregoing appropriations, and carefully estimating the amount of labor required to operate

the inside industries of the prison, we find an excess of convicts to the number of 800, and we recommend that lands be purchased by the State upon which they shall be worked by and for the account of the State. Your committee feel thoroughly convinced that the contract system now in force by the State should be abolished.

We are satisfied that it is necessary to have cheap fuel at the penitentiaries, in order that the industries there may flourish. We recommend that the bill now pending before the Legislature, providing for an appropriation for testing the value of lignite as a fuel, do pass.

In view of the fact that the timber lands of the State used for coaling purposes in Cherokee county are now well nigh exhausted, and far away from the prison, we would recommend that lands from which the timber has been taken be sold, and that the proceeds be reinvested in timber lands.

It appears to your committee that the freight rates from Jacksonville to the Rusk penitentiary are extortionate, as was stated to them by the board of trade and merchants at Rusk that the rate from St. Louis to Jacksonville was the same as from Jacksonville to Rusk, a distance of sixteen miles.

Therefore, we would recommend that the state construct a road from Rusk to the nearest point on the International and Great Northern railroad to protect its interest in the matter of freights to and from the prison; besides, such road would pass through a dense forest of timbered lands, such as the State would need, as well as though inexhaustible beds of iron ore. We are further informed that the Rusk penitentiary is operated at a considerable loss to the State, and that the Huntsville penitentiary is about self-supporting, or nearly so, and that the State farms are not only self-supporting, but sufficient over and above expenses is realized to contribute largely toward meeting the losses at Rusk and Huntsville.

We would recommend executive clemency to the following named convicts: A. Y. Lisinbee, Dan Rush, Marsh Robertson colored, William Standifer colored, Oliver Mills colored, Julius Allen colored, Shack Powell colored, Lee Tennison, colored and blind. We saw these convicts and the recommendation here made is made at the suggestion of Major Gorce and the

assistant superintendents and the officers under them and from what we have learned from these officers with regard to the good conduct of the above named convicts, we believe that their reformation is partially complete and that from this time they will be good citizens if pardoned.

We desire to state that the convicts both at Rusk and Huntsville were almost a unit in their request for a change of chaplains at both places. We therefore request the penitentiary board to give this matter their early attention. We further recommend that where a convict who is serving a two-term sentence shall receive the commutation of time as one serving one term for the same length of time.

In closing this, our report, we desire to express a high degree of appreciation of the executive ability and business management of Maj. T. J. Goree, superintendent of the Texas penitentiaries.

All of which is respectfully submitted.

L. A. WHATLEY, Chairman,
J. L. DOGGETT,
G. C. CLEGG,
L. LLOYD.

Being only with the committee on the Harlem State farm, and Cunningham and Ellis farms in Fort Bend county, and heartily concur with the committee in its suggestions and recommendations relative to said places.

M. H. TOWNSEND.

EXHIBIT A.

For estimated cost of machinery of Rusk penitentiary:

1 cylinder boring and facing machine.....	\$2,975
1 8-ft. boring and turning mill.....	1,650
1 No. 4 horizontal boring and drilling machine.....	3,490
1 25-inch shaping machine.....	900
1 10-inch shaping machine.....	500
1 milling machine.....	1,500
1 milling machine grinder.....	350
1 slanting machine.....	1,000
1 automatic gear cutting machine.....	1,200
1 cutting off and centering machine.....	800
Two Emery grinding machines.....	1,100
1 42-screw cutting engine lathe.....	4,100
1 brass finisher's lathe.....	950
1 30-engine lathe.....	2,500
1 26-engine lathe.....	1,700
1 tap lathe.....	1,100
1 special shafting lathe.....	3,500
1 pipe-cutting machine up to 5 inches.....	700
1 key-seat cutter.....	450
1 32-inch lathe, 20 feet between centers.....	3,500
1 16-tool lathe.....	800
1 38-inch planer, to plane 18 feet.....	4,000
1 54-inch planer, to plane 18 feet.....	4,500
1 set - standing gauges and callipers.....	200
25 machinist's vises.....	450
1 dozen ratchets.....	150
1 screwing machine, for studs and set screws.....	600
1 complete set twist studs, reamers and sockets.....	515
1 first drill grinding machine.....	200

1 set app and dies.....	130
Gasfitter's tools	175
Travelers and cranes.....	4,000
Line shafting.....	550
Line shafting hangers.....	560
Line shafting compression couplings.....	225
Line shafting pulleys.....	720
Counter shafts.....	250
Counter shaft hangers.....	300
Counter shaft pulleys.....	550
Belt ing.....	950

Tot l \$54,580
One hydraulic press, 56 inches.

EXHIBIT B.

Average run of blast furnace when running on car wheel iron:

Twenty-five tons per day (when in blast).

Twenty-eight tons of hot blast, or foundry iron per day.

Cost of making one ton of pig iron, \$13.43.

Average of water pipe made daily in pipe foundry:

When pig iron has to be used and melted in cupolo, the cost of one ton of pipe is \$23.68.

When made direct from the blast furnace, cost per ton, \$19.18.

The following report from free conference committee was handed in and together with the substitute bill was ordered to be printed in the journal:

COMMITTEE ROOM,
Austin, March 13, 1891.

To Hon. George C. Pendleton, President of the Senate and Hon. R. T. Miner, Speaker of the House of Representatives:

Sirs-Your free conference committee appointed by both houses of the Twenty-second legislature to settle the differences between the houses on Senate bill No. 97, entitled an act to require railroad companies in this state to provide separate coaches for white and colored passengers; to prohibit passengers from riding or attempting to ride in coaches other than those set apart for his color; to confer upon conductors power to enforce the provisions of this act to regulate passenger travel and to provide penalties and punishments for the violation thereof," respectfully report that they have had the same under consideration and submit the accompanying substitute for Senate bill No. 97 and all amendments and recommend its adoption in lieu thereof.

WHATLEY,
CLARK,
KEARBY,
SKALK,
TOWNSEND,
For Senate.

CONNELLEE,
CURRY,
TRUIT,
OLIVER,
MURRELL,
For House.

The bill is as follows:

Senate bill No. 97, a bill to be entitled "An act to require railroad companies in this state to provide separate coaches for white and negro passengers, and to prohibit passengers from riding in coaches other than those set apart for their race, and to confer certain powers upon conductors, and to provide penalties for the violation of this act."

Section 1. Be it enacted by the Legislature of the State of Texas, that every railroad company, les-ee, manager or receiver thereof doing business in this state as common carriers of passengers for hire shall provide separate coaches for the accommodation of white and negro passengers, which separate coaches shall be equal in all points of comfort and convenience.

Sec. 2. The term negro, as used herein, includes every person of African descent, as defined by the statutes of this state.

Section 3. Each compartment of a coach divided by a good and substantial wooden partition, with a door therein shall be deemed a separate coach within the meaning of this act and each separate coach shall bear in some conspicuous place appropriate words in plain letters indicating the race for which it is set apart.

Section 4. Any railroad company, les-ee, manager or receiver thereof, which shall fail to provide its trains carrying passengers with separate coaches as above provided for, shall be liable for each and every such failure to a penalty not less than one hundred nor more than one thousand dollars, to be recovered by suit in the name of the State in any court of competent jurisdiction, and each trip run with any such train without such separate coaches shall be deemed a separate offense.

Section 5. If any passenger upon a train provided with separate coaches shall ride in any coach not designated for his race, after having been forbidden to do so by the conductor in charge of the train, he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five nor more than twenty-five dollars.

Section 6. The provisions of this act shall not be so construed as to pro-

hibit nurses) from traveling in the same coach with their employers, or employes upon the train in the discharge of their duties, nor shall it be construed to apply to such freight trains as carry passengers in cabooses, neither shall it apply to street railway cars; provided, that nothing herein contained shall be construed to prevent railroad companies in this State from hauling sleeping cars or chair cars attached to their trains, to be used exclusively by either white or negro passengers separately, but not jointly.

Section 7. Every railroad company carrying passengers in this State shall keep this law posted in a conspicuous place in each passenger depot and in each passenger coach provided for in this act.

Section 8. The provisions of this act shall not apply to any excursion train, run strictly as such, for the benefit of either race.

Section 9. Conductors of passenger trains provided with separate coaches, shall have authority to refuse any passenger admittance to any coach in which he is not entitled to ride under the provisions of this act, and the conductor in charge of the train shall have authority, and it shall be his duty to remove from a coach any passenger not entitled to ride therein under the provisions of this act. And upon his failure or refusal to do so, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than five and not more than twenty-five dollars.

Section 10. All fines collected under the provisions of this act shall go to the available common school fund of the county in which conviction is had. Prosecutions under this act may be instituted in any court of competent jurisdiction in any county through or into which said railroad may be run or have an office.

Section 11. All laws and parts of laws in conflict herewith are hereby repealed.

Section 12. There being no adequate law on the subject creates an emergency and an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days, and the same is hereby suspended.

By consent the following bills were introduced:

By Senator Weisiger:

A bill to be entitled an act to provide for the punishment of persons furnishing, giving, or using any false pedigree or false certificate of sale.

Read first time and referred to Judiciary committee No. 2.

By Senator Mott:

A bill to be entitled an act to amend the charter of the city of Galveston by amending sections 3, 5, 14, 17, 20, 23, 28, 29, 41, 78, 79, 95, 127, 128, 155, 156 and 157, thereof; and by adding thereto sections 6a, 18a, 39a, 72a, 73a, 78a, 95a, 100a, 128a, 130b, 132c, 164a, 169a, 174a and 175.

Read first time and referred to committee on Incorporated Towns.

The chair announced the Conference committee on

House bill No. 211, to be Senators Clemens, Simkins, McKinney, Lubbock and Weisiger.

Senator Pope moved that the Senate adjourn to 3 p. m. this day.

Lost by the following vote:

YEAS—8.

Atlee,
Garwood,
Glasscock,

Harrison,
Maetze,
Pope,
Seale,
Weisiger.

NAYS—20.

Burney,
Clark,
Clemens,
Craue,
Cranford,
Finch,
Frank,

Johnson,
Kearby,
Kimbrough,
Lubbock,
McKinney,
Mott,
Page,
Potter,
Simkins,
Stephens,
Townsend,
Tyler,
Whatley.

Question recurring to the substitute of Senator Atlee it was lost by the following vote:

YEAS—12.

Atlee,
Clemens,
Cranford,
Frank.

Garwood,
Johnson,
Mott,
Page,
Potter,
Seale,
Stephens,
Tyler.

NAYS—15.

Burney,
Clark,
Craue,
Finch,
Glasscock,

Harrison,
Kearby,
Kimbrough,
Lubbock,
Maetze,
McKinney,
Simkins,
Townsend,
Weisiger,
Whatley.

Senator Burney moved the previous question on sections 5, 6 and 7 of the pending bill which was ordered.

A division being called for section 5 was adopted by the following vote:

YEAS—23.

Burney,
Clark,
Clemens,
Craue,
Cranford,
Finch,
Frank,
Glasscock,

Harrison,
Kearby,
Kimbrough,
Lubbock,
Maetze,
McKinney,
Mott,
Page,
Seale,
Simkins,
Stephens,
Townsend,
Tyler,
Weisiger,
Whatley.

NAYS—4.

Atlee,
Garwood,

Johnson,
Potter.

Sections 6 and 7 were adopted by the following vote:

YEAS—26.

Atlee,	Glasscock,	Potter,
Burney,	Johnson,	Seale,
Clark,	Kearby,	Simkins,
Clemens,	Kimbrough,	Stephens,
Crane,	Lubbock,	Townsend,
Cranford,	Maetze,	Tyler,
Finch,	McKinney,	Weisiger,
Frank,	Mott,	Whatley,
Garwood,	Page,	

NAYS—None.

Mr. President:

We vote "aye" on the adoption of sections 5, 6 and 7 of the bill because having done all in our power to amend them and make them conform to the decisions of the courts of last resort as we understand them, now feel it our duty to vote for these sections although we have grave doubts as to the propriety of adopting them.

CRANFORD.
GARWOOD.

Senator Seale moved to adjourn to 3 p. m., this day.

Senator Harrison moved to adjourn to 3:30 p. m., this day.

Senator Seale withdrew his motion to adjourn to 3 p. m.

The motion of Senator Harrison prevailed and the Senate adjourned to 3:30 p. m., this day.

AFTERNOON SESSION.

SENATE CHAMBER.

Austin, March 13, 1891.

Senate met pursuant to adjournment.

Lieutenant-Governor Pendleton in the chair.

Roll called.

Quorum present.

The following Senators answering to their names:

PRESENT—21.

Burney,	Glasscock,	Page,
Clark,	Harrison,	Pope,
Clemens,	Johnson,	Seale,
Cranford,	Kimbrough,	Stephens,
Finch,	Lubbock,	Tyler,
Frank,	Maetze,	Weisiger,
Garwood,	Mott,	Whatley,

ABSENT—3.

Atlee,	Kearby,	Potter,
Crane,	McKinney,	Simkins,
		Townsend,

By consent Senator Glasscock offered the following concurrent resolution:

Be it resolved by the Senate, the House of Representatives concurring, that the National Educational Association is hereby cordially invited to hold their annual meeting in 1892 in this state.

Adopted.

Question recurred to Section 8 of House Substitute Senate bills Nos. 1, 3 and 58, entitled "An act to establish a railroad commission for the state of

Texas, whereby discrimination and extortion in railway charges may be prevented and reasonable freight and passenger tariffs may be established; to prescribe and authorize the making of rules and regulations to govern the commission and the railroads and to afford railroad companies and other parties adequate remedies; to prescribe penalties for the violation of this act, and to provide means and rules for its enforcement."

Senator Kimbrough offered the following amendment:

Amend section 8, page 7 by inserting the following after the word "rates" in line 11, "in type of a size not less than pica."

Adopted.

Senator Garwood offered the following amendment:

Add to section 8, "In all cases where the rates shall not have been fixed by the commission, no changes shall be made except after ten days notice to, and consent of the commission."

Adopted.

Section 8 was adopted.

Senator Johnson offered the following amendment:

Amend section 9 by inserting after the word "thereby," in line 7, the words, "stating the amount of such damage."

Adopted.

Senator Kearby offered the following amendment:

Amend section 9 by adding thereto in line 19, after the word "matter" the following:

Provided further, that the commissioners may require the testimony so taken before them to be reduced to writing, when they may deem it necessary or when requested to do so by either party to such proceedings, and a certified copy, under the hand and seal of said commission, shall be admissible in evidence upon the trial of any cause or proceeding growing out of the same transaction, against such railroad, involving the same subject matter and between the same parties.

Adopted.

The following message was received from the House:

HALL OF THE HOUSE OF REPRESENTATIVES, AUSTIN, TEXAS,
Austin, March 13, 1891.

Hon. George C. Pendleton, President of the Senate:

Sir—I have been instructed to inform the Senate that the House has passed

Senate substitute bill No. 159, being

a bill to be entitled "An act to define, prevent and punish fraud and evasion in the assessment and collection of the public revenue arising upon money in coin, notes or bonds subject to taxation in the State of Texas, and to provide a punishment therefor," with the attached amendment.

That the House has adopted Senate concurrent resolution No. 5, relative to the garrison of Fort Brown, etc.

SAM H. DIXON,

Chief Clerk House of Representatives.

Senator Seale offered the following amendment:

Amend section 9, page 8, by inserting after the word "investigation" in line 13, the following: "Provided, that if the commission shall find, upon investigation, that there has been no violation, the cost of said investigation shall be determined as in trials of civil cases."

Adopted.

Sec. 9. Adopted.

Sec. 10. Read and considered.

Senator Pope offered the following amendment:

Amend, after word "necessary," line 25, page 8, section 9, add following: "After reasonable notice to the railroad company of a purpose so to do."

Withdrawn.

Senator Pope offered the following amendment:

Amend after word "necessary," section 10, page 8, line 25, the words "after proper demand."

Senator Pope's amendment was adopted by the following vote:

YEAS—17.

Atlee,	Harrison,	Page,
Buruey,	Johnson,	Pope,
Clark,	Kearby,	Stephens,
Crane,	Lubbock,	Townsend,
Finch,	McKinney,	Weisiger,
Glasscock,	Mott,	

NAYS—10.

Clemens,	Kimbrough,	Simkins,
Cranford,	Maetze,	Tyler,
Frank,	Potter,	Whatley,
Garwood,		

Senator Frank offered the following amendment:

Amend by adding after the word "refuse," line 31, section 10, page 8, the following: "Provided, that any person, other than one of said commissioners, who shall make any such demand, shall produce his authority, under the hand and seal of said commission, to make such inspection."

Adopted.

Senator Frank offered the following amendment:

Amend section 10, page 8 by inserting between the words "Texas" and

"500" the following: "not less than 125 nor more than."

Division being called for it was adopted by a vote of 14 to 7.

Senator Frank offered the following amendment:

Amend section 10, page 9 by striking out in line 7 the figures "\$100" and insert the figures "\$125," and strike out the figures "\$1000 and insert "\$500."

Adopted.

Senator Stephens offered the following substitute:

Amend section 10, page 8, line 28, by adding the word "wilfully" after the word "shall," in said line 28.

Adopted.

Senator Finch moved to reconsider the vote by which the amendment of Senator Stephens had passed.

Adopted.

On the amendment of Senator Stephens the following vote was taken:

YEAS—4.

Garwood,	Harrison,	Stephens,
Glasscock,		

NAYS—23.

Atlee,	Johnson,	Pope,
Buruey,	Kearby,	Potter,
Clark,	Kimbrough,	Simkins,
Clemens,	Lubbock,	Townsend,
Crane,	Maetze,	Tyler,
Cranford,	McKinney,	Weisiger,
Finch,	Mott,	Whatley,
Frank,	Page,	

And the amendment was lost.

Section 10 was adopted.

Section 11 read and considered.

Senator Johnson offered the following amendment:

Add section 11 after line 26: "The reasonable rates and charges of a railroad shall be such rates and charges as will yield a fair interest on the capital actually invested in it. All rates and charges levied for the purpose or on the basis of paying interest charges or dividends on fictitious stocks, bonds, or indebtedness shall be deemed to be unreasonable and unjust."

And spoke in favor of his amendment.

Senator Simkins spoke against and Senator Garwood for the amendment. Senator Kimbrough offered the following:

Amend amendment by striking out the words "capital actually invested," and insert "actual cash value."

Senator Crane addressed the Senate in opposition to the amendment.

Senator Clark spoke in favor of the amendment of Senator Johnson.

Senator Mott addressed the Senate in favor of Senator Johnson's amendment.

Senator Kimbrough withdrew his amendment to the amendment of Senator Johnson.

(President pro tem Cranford in the Chair.)

The amendment of Senator Johnson was lost by the following vote:

YEAS—11.

Clark,	Harrison,	Pope,
Cranford,	Johnson,	Potter,
Garwood,	Lubbock,	Stephens.
Glasscock,	Mott,	

NAYS—15.

Atlee,	Kearby,	Simkins,
Burney,	Kimbrough,	Townsend,
Clemens,	Maetze,	Tyler,
Finch,	McKinney,	Wei-lger,
Frank,	Page,	Whatley.

Senator Crane announced that he was paired with Senator Seale; if the latter were present he would vote aye, and himself (Senator Crane) would vote no.

Senator Pope offered the following amendment:

Amend by adding: "And the commission shall also ascertain how many cows have been killed by the railroads, and the sex of same; also how many mules, how many hogs, and also how many wrecks have been had; their ages, sexes, size, color and previous condition of servitude; also how much money for damages for personal injuries railroads have paid; also how many Senators who voted for the anti-free pass bill had passes at the time the vote was cast; and also how many members of the respective houses of the Twenty-second Legislature expect to ride into office on the anti railroad legislation hobby horse."

Ruled out of order by the chair, as not germane to the bill.

Senator Frank offered the following amendment:

Amend section 11, page 9, by inserting after the word "expert" in line 28, the following: "who shall be civil engineers."

Lost.

Senator Tyler offered the following amendment:

Amend section 11 by adding thereto in line 31, page 9, the following: "And said information shall be printed from time to time in the annual report of the commission."

Adopted.

Senator Clark offered the following amendment:

Amend section 11 by adding after the word "railroad," line 13:

"And the amount so ascertained shall be the basis upon which the commission shall fix rates for the transportation of freights."

Senator Crane made the point of order that this amendment is in subject matter the same as the amendment of Senator Johnson, and consequently out of order.

Overruled by the chair.

Senator Atlee offered the following substitute for the amendment:

"And the amount so ascertained shall be taken into consideration by the commissioners in fixing the rates of transportation."

On motion of Senator Burney the previous question was ordered on the amendment and substitute.

The main question was ordered and the amendment and substitute were lost by the following vote:

YEAS—11.

Atlee,	Glasscock,	McKinney,
Clark,	Harrison,	Mott,
Cranford,	Johnson,	Potter,
Garwood,	Lubbock,	Stephens,

NAYS—14.

Burney,	Kearby,	Townsend.
Clemens,	Kimbrough,	Tyler.
Crane,	Maetze,	Weisiger,
Finch,	Page,	Whatley.
Frank,	Simkins,	

The following committee report was handed in by Senator Harrison:

COMMITTEE ROOM,

Austin, March 13, 1891.

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your committee to whom was referred the matter of the presentation of the portrait of Hon. R. M. Williamson beg leave to submit the following resolution:

Resolved, That the Senate meet in the Senate chamber on the evening of the 21st of March at 8 o'clock p. m., on which occasion the presentation will be made by Hon. George Clark. The President of the Senate will receive the same on behalf of the state, and Senator Crane will deliver an oration in behalf of this body; and resolved further that the House of Representatives be requested to meet the Senate in joint session on that occasion.

HARRISON, Chairman.

Adopted.

Senator Harrison moved to adjourn to 10 a. m. tomorrow.

Lost.

Senator Johnson moved to postpone further consideration of Substitute Senate bills Nos. 1, 3 and 58 until Monday morning.

Adopted.

On motion of Senator Maetze the Senate adjourned to 10 a. m. tomorrow.

FIFTY-SECOND DAY.

SENATE CHAMBER,
Austin, March 14, 1891.

The Senate met pursuant to adjournment.

Lieutenant-Governor Pendleton in the chair.

Roll called.

No quorum present.

The following Senators answered to their names.

PRESENT—19.

Burney,	Harrison,	Pope.
Clark,	Kearby,	Potter,
Clemens,	Kimbrough,	Simkins,
Crane,	Maetze,	Tyler.
Cranford,	McKinney.	Weisiger,
Finch,	Page,	Whatley.
Garwood,		

ABSENT—9.

Atlee,	Johnson,	Seale,
Frank,	Lubbock,	Stephens,
Glasscock,	Mott.	Townsend,

Senator Kimbrough moved a call of the Senate, which was ordered.

The following Senators answering to their names:

PRESENT—21.

Burney,	Harrison,	Pope,
Clark,	Kearby,	Potter,
Clemens,	Kimbrough,	Simkins,
Crane,	Lubbock,	Stephens,
Cranford,	Maetze,	Tyler.
Finch,	McKinney.	Weisiger,
Garwood,	Page,	Whatley.

ABSENT—4.

Frank,	Johnson,	Lubbock,
Glasscock,		

Quorum present.

Prayer by the chaplain, Dr. Smoot.

On motion of Senator Garwood Senator Seale was excused indefinitely on account of sickness in his family.

On motion of Senator Finch Senator Frank was excused for today on account of important business.

On motion of Senator Weisiger Senator Glasscock was excused for today on account of important business.

On motion of Senator Lubbock Senator Mott was excused for today on account of important business.

Pending the reading of the journal, on motion of Senator Clemens, the further reading of the same was dispensed with.

On motion of Senator Pope, Senator Johnson was excused for today on account of important business.

Senator Crane moved to reconsider the vote adopting the amendment of Senator Pope to section 10 of House

Substitute Senate bills Nos. 1, 3 and 58 and asked to have the motion spread upon the journal.

PETITIONS AND MEMORIALS.

By the chair:

Petition of Mrs. Mary Craddock for relief on account of the service of her brother, George Wilcox.

Read first time and referred to committee on State affairs.

The following reports were handed in from their respective committees:

COMMITTEE ROOM.

Austin, March 13, 1891.

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your committee on State Affairs, to whom was referred

Senate bill No. 349, being "An act for the relief of C. C. Dupree, late sheriff and tax collector of Franklin county, Texas."

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

WHATLEY, Chairman.

COMMITTEE ROOM.

Austin, March 13, 1891.

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your committee on State Affairs, to whom was referred

Joint resolution setting apart a portion of the State cemetery for the interment of Confederate dead,

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass,

WHATLEY, Chairman.

COMMITTEE ROOM.

Austin, March 12, 1891.

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your Committee on Internal Improvements, to whom was referred

House bill Nor 333, being "An act to rescind and amend the charter and dissolve the corporation known as the Bowers and Piney Creek railway company from all further duties and obligations thereunder,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

JOHNSON, Chairman.